

## **Rye City Planning Commission Minutes**

April 8, 2003

### **PRESENT:**

Michael Klemens, Chairman  
Peter Larr, Acting Vice-Chair  
Franklin Chu  
Patrick McGunagle  
Martha Monserrate  
Hugh Greechan

### **ABSENT:**

Barbara Cummings, Vice-Chair

### **ALSO PRESENT:**

Christian K. Miller, AICP, City Planner  
George M. Mottarella, P.E., City Engineer  
Joseph Murphy, Chairman, Conservation Commission/Advisory Council (CC/AC)  
Chantal Detlefs, City Naturalist

Michael Klemens called the meeting to order and noted that a quorum was present to conduct official business. He noted that Vice-Chair Cummings was absent and that Peter Larr would serve as Vice-Chair for the meeting.

## **I. HEARINGS**

### **1. Walker Subdivision**

Chairman Klemens read the Public Notice.

Linda Whitehead (applicant's attorney) stated that this public hearing was a continuation. She explained that the application involved a 3-lot subdivision, building two new homes in the rear of the property and serviced by a common driveway running from Forest Avenue along the southern property line. All three lots conform to the City's Zoning Code and exceed one acre in area. Ms. Whitehead noted that additional plans detailing drainage and tree preservation were provided to the Commission.

Ms. Whitehead explained that the property is fairly flat, requiring minimal grading. Public sewer and water will service all houses. There will be minimal tree removal. The houses are located outside the wetland buffer, so no wetland permit is needed and all building activities will take place outside the buffer. A silt fence will be provided along the buffer line

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1 to delineate edge of construction and avoid construction disturbances within the wetland  
2 buffer.

3  
4 Ms. Whitehead introduced Tom Ahneman of J.A. Kirby, who presented the Commission  
5 with a stopping site distance comparison report comparing Sight Lines from each of the  
6 alternative driveway locations considered during the Commission's review of the  
7 application. This site distance report for three focal points was taken 10 ft. from the  
8 property line. From the Forest Avenue south location (submitted curb cut location), site line  
9 for a left hand turn is 167 feet (there is a large tree on city property in the right-of-way  
10 obstructing sight lines). The site line for a right hand turn is 802 feet. For the Forest  
11 Avenue north location, site line for a left turn is 478 feet (same tree in right-of-way obstructs  
12 sight distance) and 0 feet for a right hand turn (shrubs in right-of-way obstruct sight  
13 distance). At the Manursing Way location, site line for a left hand turn is 256 before it  
14 becomes obstructed by a vertical curve and 267 feet of site line to the right before it  
15 becomes obstructed by a horizontal curve in the road. These distances are based on a 30  
16 mph speed. Mr. Ahneman stated that DOT minimum required site distance for 30 mph is  
17 200 ft.

18  
19 The Commission questioned as to whether this was a realistic estimate because  
20 prevailing speeds on Forest Avenue closer to 40 mph.

21  
22 The Chairman invited comments from the public.

23  
24 Eric Gordon from Keane & Beane (attorney representing area neighbors) stated that he  
25 was just hired by the residents of Rockridge Road and represents their interests in this  
26 subdivision. The residents feel that the subdivision as it is proposed, would have a  
27 detrimental affect. He noted that they would support a one-house development, as  
28 opposed to two houses, and a driveway access off of Manursing Way, since a two lot  
29 subdivision would generate twice as much traffic and garbage pick-up, etc.

30  
31 Mr. Gordon stated that, although the CC/AC said that the Manursing Way driveway would  
32 have a detrimental impact on the adjacent wetland, the applicant also submitted some  
33 environmental studies that indicated it could be build a driveway within the buffer. Mr.  
34 Gordon stated that the neighbors feel that Manursing Way is the appropriate place for the  
35 driveway. Wetland Regulation Section 195-5D, section G states that the Commission  
36 should look "...at preferable alternatives." The neighbors do not feel that the proposed  
37 driveway is a preferable alternative to the Manursing Way driveway.

38  
39 Mr. Gordon asked the Commission's permission for time to have their own environmental  
40 consultant study the possibility of using Manursing Way as a driveway access, since the  
41 residents of Rockridge feel that the Forest Avenue South access is not a viable option for  
42 them. Mr. Gordon pointed out that in the initial application (which involved driveway access  
43 from Manursing Way), Ms. Whitehead wrote that the driveways that are being presented

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1 were not viable alternatives " .... Due to the proximity of the existing neighboring houses to  
2 the alternative driveways." If the driveway is not accepted on Manursing, the neighbors  
3 would like to address the Commission on conditions that could be imposed, such as  
4 screening.

5  
6 With regard to the subdivision itself, Mr. Gordon stated that the neighbors believe that a 2-  
7 lot subdivision is more appropriate. Two additional houses on this property will have a  
8 significant impact on the neighbors, both from an aesthetic sense and from a traffic sense  
9 if the driveway is placed along the southern property line. One home proposal is preferred  
10 by the neighbors and is the appropriate alternative in this case. Two homes on this  
11 property will have a significant impact on the neighboring property owners.

12  
13 If the driveway comes through as proposed, the applicant maintains that it economically  
14 reduces the value of the existing home therefore requiring the need for two homes instead  
15 of one home. Obviously the neighbors don't agree with that assessment and support a 2-  
16 lot subdivision as opposed to a 3-lot subdivision. The neighbors are willing to work with  
17 the Commission and the applicant to make this a viable plan that will have the least impact  
18 on the surrounding community.

19  
20 The Commission stated that the residents of Rockridge Road were free to hire a  
21 consultant, but that they cannot authorize the consultant to access the property unless the  
22 property owner consents. The Commission stated that the public hearing will remain open  
23 until the next meeting on April 22. The Commission also noted that the consultant should  
24 be aware of site line studies already presented. The neighbors should keep in mind what  
25 the law is regarding the applicant's right to build on his lot. The Applicant has the legal  
26 right, without variances, to build two houses. Mr. Gordon states that the neighbors were  
27 mindful of that, but that the Commission has certain discretion if there are impacts that  
28 override that right.

29  
30 Ty Ralli of 11 Rockridge Road stated his objection to the negative impact and adverse  
31 affect of putting the driveway from Forest Avenue South. He quoted in part from Ms.  
32 Whitehead's correspondence to the Planning Commission when she wrote ".... Any  
33 driveway along the other side of the property would require the removal of a number of  
34 significant trees and would have a significant impact on the neighbors on Rockridge Road.  
35 The lots on Rockridge are significantly smaller and the houses are close to this property  
36 line and the driveway would run along their rear yards". This statement was made when  
37 there was only a 1-lot subdivision. Two houses forces the driveway closer to Rockridge  
38 Road and has a much bigger impact on the residents. Since the trees are large, all their  
39 leaves are higher than 8 feet, so there is no barrier for the neighbors. He urged the  
40 Commission to consider the first proposal.

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1 Stephanie Gardner of 15 Rockridge Road noted concern about a driveway running through  
2 her back yard because she has young children. She urged the Commission to consider  
3 the alternative option for safety reasons.  
4

5 Christopher Clark of 10 Manursing Way has been a resident of Rye for over 30 years. He  
6 spoke at the last public hearing for this property and wanted to repeat his position that his  
7 property line is extremely close to the second of the two houses proposed on the Walker  
8 property. He noted that he is opposed to building two houses on this property. He feels  
9 that since residents on both sides of the Walker property are opposed to building two  
10 houses, the Commission should consider allowing the applicant's original plan of just one  
11 house to be built. Mr. Clark also stated that he felt the best position for the driveway would  
12 be off of Manursing Way because the adjacent Edith Reed Sanctuary would not be  
13 adversely impacted since the road would be on top of a ridge and protected by a gully that  
14 exists between the driveway and the wetland.  
15

16 Lynne Bragonier of 5 Rockridge Road noted that she been a resident of Rye for 25 years  
17 and stated that all the residents of this area have always enjoyed living there and have  
18 worked together on many projects, such as when they all joined the city sewer system in  
19 1999. She also noted that the neighbors worked together regarding the recent  
20 reconstruction at 11 Rockridge Road and resolved their issues amicably with the builder.  
21 After reviewing the last 5 months of minutes, she realized that the Commission kept  
22 revisiting the applicant's first submission. It appears to have the least amount of impact if  
23 managed the right way. Ms. Bragonier stated that the Commission has exhausted all  
24 other alternatives and that the original proposal was the best.  
25

26 Ms. Whitehead stated that the public hearing has been open for one month and that should  
27 have been sufficient time for the neighbors to have obtain professional assistance. She  
28 requested that there be a timeframe that the neighbors have to get additional information  
29 in. The Commission felt that it was a reasonable request to set a timeframe of its next  
30 meeting on April 22.  
31

32 The Commission noted that it has not even made a determination of environmental  
33 significance as yet. Ms. Whitehead stated that the building envelope illustrated on the  
34 submitted plan is just an indication of where the new houses could be built, not the actual  
35 size of the finished house. The houses could and probably will be smaller than shown and  
36 controlled by FAR restrictions in the Zoning Code. She also stated that the driveway  
37 proposed along the back of the houses on Rockridge was a driveway, not a road, or a  
38 public right-of-way and will be located on private property. The driveway has been moved  
39 off of the property line, allowing a number of trees to remain between the driveway and the  
40 rear yards of the residents of Rockridge Road. The zoning for the Walker property requires  
41 a minimum lot area of one acre per residence. The Rockridge Road zoning requires 1/3 of  
42 an acre of area for each residence. If the zoning line were different, many more – up to 6 or  
43 7 -- houses could be built on the applicant's property.

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The Commission inquired of Mr. Gordon if it was realistic for him to hire an environmental consultant and have a report for the next Planning Commission meeting on April 22. He stated that his firm was only hired 2 days ago, but he would try to have the environmental study done by then with the applicant's cooperation, though he wanted 4 weeks. The Commission urged the applicant to cooperate with the residents of Rockridge Road in this matter, as the Commission would like to close the public hearing on April 22.

The City Planner noted that if the Commission has reservations about the information that has been provided to on the record to date and it expected that additional plan modifications may be necessary, that that should be the basis for continuing the hearing. He suggested that the Commission should still reserve the right to close the hearing at such time that the Commission feels comfortable that the information that has been provided is sufficient enough for it to make a decision, regardless of whether the neighbors provide a report by the next meeting. He further noted that any report submitted after the public hearing would still be part of the public record.

The City Planner also suggested that if the Commission felt the application may have significant adverse environmental impacts under State Environmental Quality Review Act (SEQRA) that it should begin to identify those impacts as soon as possible.

On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the following vote:

AYES: Michael Klemens, Franklin Chu, Martha Monserrate, Patrick McGunagle, Hugh Greechan, Peter Larr

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

**ACTION:** The Planning Commission continued the public hearing for Subdivision and LWRP Coastal Consistency Application Number SUB272.

### 2. Liew Residence

Chairman Klemens read the public notice.

Paul Jaehnig (applicant's environmental consultant) and John J. Scarlato, Jr. (applicant's architect) gave a brief overview of the application, which involves a 1-1/2 story addition and architectural modification and a 2-story deck and gazebo to an existing residence within a 100-foot wetland buffer. Part of this addition is within the 100-foot setback and would be

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as close as 67 feet to the off-site wetland on the adjacent Apawamis Golf Club property. This wetland is part of Beaver Swamp Brook and is the water hazard for the golf course. Mr. Jaehnig explained the existing and proposed impervious surface areas. He noted that a mitigation plan was prepared incorporating the comments based on the site visit with the Planning Commission. The plan includes more native shrubs and groundcovers in and along the property line and down from the property line to fill in along the golf course where vegetation is thin or absent.

Peter Larr stated, at the time, that he was a member of the Apawamis Club and asked whether the Commission felt that this was a conflict of interest on his part. The Commission felt that it was not.

Chairman Klemens asked if there were any public comments. There were no public comments.

On a motion made by Peter Larr, seconded by Franklin Chu and carried by the following vote:

AYES: Michael Klemens, Franklin Chu, Martha Monserrate, Patrick McGunagle, Hugh Greechan, Peter Larr

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

**ACTION:** The Planning Commission closed the public hearing for Wetland Permit #125.

### 3. 2 School Street

Chairman Klemens read the public notice.

Linda Whitehead (applicant's attorney) and David Mooney (applicant's architect) gave a brief overview of the application, which involves a change from the original application that had already been approved by this Commission. In the original application, the applicant wanted to put a 4-car garage with storage above in place of existing garage. The current application proposes a 2-car garage with storage space in the same location as the existing garage, but shifted six feet from the Larkin property line. Ms. Whitehead noted that the new application is a reduction in the size of the building and a reduction in paved area. The current application also uses existing curb cut on Smith Street.

Chairman Klemens asked if there were any public comments.

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Mrs. Patricia Larkin, a resident of 25 Smith Street, noted concern that the new proposed garage would be significantly higher than the existing garage and, therefore, block air and light from the entire right side of her house. She has no air conditioning and is concerned about ventilation in the summer. She questioned what was going to be stored in the storage area on the top of the garage and whether it would constitute a fire hazard. She questioned why such storage cannot be kept in the attic of the existing house. She also reported that the heavy carting trucks drove over the front sidewalk of her house and damaged the slate and requested that the applicant repair it as soon as possible.

The City Planner will notify the City Engineer with regard to repairing the sidewalks in front of 25 Smith Street.

On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the following vote:

AYES: Michael Klemens, Franklin Chu, Martha Monserrate, Patrick McGunagle, Hugh Greechan, Peter Larr

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings

the Planning Commission took the following action:

**ACTION:** The Planning Commission closed the public hearing for the modified site plan application.

### 4. Schiffer Residence

Chairman Klemens read the public notice.

Rex Gedney (applicant's architect) gave a brief overview of the application, which involves the demolition of existing residence and proposed two-lot subdivision with two single-family residences. Both new lots exceed minimum acreage and setback criteria for the R-5 zoning and both will face Sonn Drive with the driveway access for the corner house off of Claremont Avenue. A new curb cut will be installed for the interior property on Sonn Drive. There are adequate existing public utilities serving the property. The drainage system will be designed in accordance with City standards and approval by the City Engineer.

Chairman Klemens asked if there were any member of the public who wished to speak.

Fred Silverman of 5 Reymont Avenue questioned the zoning compliance of the proposed lots noting that 75 feet of lot width is not provided as required by the Zoning Code for the

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entire portion of the lot where the residence is located. Mr. Silverman also noted that since there is no parking allowed on Sonn Drive, any guests to these new homes would have to park around the corner on Reymont and Claremont, in front of neighbor's houses.

Ed Livingston of 4 Reymont Avenue, whose property abuts the interior lot, is concerned about the driveway of the interior lot since it would be located on the middle of a steep hill on Sonn Drive. He stated that vehicles speed down Sonn Drive and a driveway in this location would present a hazard. There are many children in the area that sled and skateboard down Sonn Drive. Vehicles speeds down Sonn Drive, because there are not speed bumps. Mr. Livingston also felt that crowding two small homes on this property was not in keeping with other larger homes being built in this area.

Elizabeth Doyle of 50 Claremont Avenue noted concerned about overcrowding the area with two more new homes. She does not oppose one larger house, but does oppose two homes being built on this property.

Theresa Bellinger, a Claremont Avenue resident, opposed building two small houses in this area, which she called nice. Ms. Bellinger is opposed to all subdivisions in this area. Ms. Bellinger felt that the addition of smaller homes would bring the property values down in the area.

Charles Davis of 20 Reymont Avenue, also expressed concerns about the hill on Sonn Drive. He stated that the interior house would be higher than the corner house, and since Sonn Drive was narrow parking would be a concern for the neighbors. Mr. Davis would prefer to keep the property as is with one house.

Mr. Gedney pointed out that the size of the proposed homes would be in the 2,700 to 2,800 sq ft. range. Parking will be in compliance with City codes. Mr. Gedney also presented seven letters to the Commission in support of this project from abutting neighbors. The letter was placed in the public record. Mr. Gedney noted that he reviewed existing properties that border Sonn Drive over to Parkway Drive and the area that is located within an R-5 District. Of the 63 properties that are within that boundary, he noted that there were only three that may be large enough to support further subdivision.

On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the following vote:

AYES: Michael Klemens, Franklin Chu, Martha Monserrate, Patrick McGunagle, Hugh Greechan, Peter Larr

NAYS: None

RECUSED: None

ABSENT: Barbara Cummings



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1 the Planning Commission took the following action:

2  
3 **ACTION:** The Planning Commission closed the Public Hearing on Subdivision and  
4 LWRP Coastal Consistency Application #280.  
5  
6  
7  
8

### 9 **5. Del Tufo Residence**

10  
11 Chairman Klemens recused himself and left the dais, but reserved the right as a citizen to  
12 address the commission. Vice-Chairman Larr served as chair for this agenda item and  
13 read the public notice.  
14

15 David Del Tufo (property owner) gave a brief overview of the application noting that it  
16 involves a wetland violation and that he is requesting to maintain 30 linear feet of fence  
17 within a wetland buffer. He explained that his tenant has two dogs and wanted to enclose  
18 the backyard. There is an existing fence on three sides of the yard. The tenant put up  
19 approx. 30 feet of fence on the fourth side of the yard. The new fence matches the existing  
20 fence that surrounds the house in appearance and height.  
21

22 Vice-Chairman Larr asked if there were any public comments.  
23

24 Michael Klemens of 30 Charlotte Street is an abutting neighbor of 30 Ellsworth St. He  
25 stated that his profession as an environmental consultant caused him to be concerned with  
26 this fence, which was erected in a wetland. The fence was erected without any consultation  
27 with the neighbors. He stated that he made several attempts to contact the Del Tufos on  
28 February 6, when the fence was being erected and his calls were not returned. He noted  
29 that closing off a wetland, as this fence does, is not beneficial. It totally encloses the  
30 backyard, impeding the flow of flood waters and flood born debris. It cuts off a piece of  
31 habitat that wildlife could use. He said the fence is not consistent with the existing fence.  
32 Two bad sides of fence now face his property. He noted that the proliferation of fences in  
33 the area is a trend that should not be allowed to continue. He also questioned whether  
34 alternative measures were explored regarding keeping the dogs in the yard. He stated  
35 that, although the tenants have two dogs, there are sometimes up to four dogs in the stock  
36 pen at any given time.  
37

38 The Commission questioned whether electronic dog fences would function properly in a  
39 flood-prone area.  
40

41 On a motion made by Patrick McGunagle, seconded by Franklin Chu and carried by the  
42 following vote:  
43

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1 AYES: Franklin Chu, Martha Monserrate, Patrick McGunagle, Hugh Greechan, Peter  
2 Larr

3 NAYS: None

4 RECUSED: Michael Klemens

5 ABSENT: Barbara Cummings

6  
7 the Planning Commission took the following action:

8  
9 **ACTION:** The Planning Commission closed the Public Hearing on Wetland Permit  
10 #126.

### 11 12 **II. ITEMS PENDING ACTION**

#### 13 14 **1. Walker Subdivision**

15  
16 Chairman Klemens resumed his role as chair of the Commission.

17  
18 The Commission discussed the environmental impact of the proposed subdivision and  
19 questioned whether the preparation of an environmental impact statement (EIS) was  
20 necessary. The City Planner suggested that the Commission review a draft he prepared of  
21 Part II of the SEQRA Environmental Assessment Form (EAF), which he provided as an  
22 attachment to the Planner's Report. He noted that this form can be used as a guide to  
23 determine whether the proposed action exceeds any examples or thresholds provided in  
24 the EAF that may be indicative of a project that has significant adverse impacts. The  
25 Commission reviewed each environmental impact identified in the EAF noting substantial  
26 agreement with the draft prepared by the City Planner. The Commission did not identify  
27 any environmental impact of the proposed three-lot subdivision that may have a significant  
28 adverse environmental impact.

29  
30 The Commission noted that further study of sight-distance based on prevailing speeds in  
31 the area was required.

32 Joe Murphy stated that the CC/AC is opposed to the Manursing Way driveway because of  
33 impact to the wetland buffer and adjacent wetland on the Edith Reed Sanctuary property.

#### 34 35 **2. JDS Properties**

36  
37 On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the  
38 following vote:

39  
40 AYES: Hugh Greechan, Peter Larr, Franklin Chu, Barbara Cummings, Martha  
41 Monserrate, Patrick McGunagle

42 NAYS: None

43 RECUSED: Michael Klemens

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1 ABSENT: Barbara Cummings

2  
3 the Planning Commission took the following action:

4  
5 **ACTION:** The Planning Commission scheduled a public hearing for April 22, 2003.

### **3. Liew Residence**

6  
7  
8 Paul Jaehnig stated that new plans had been submitted, as the Commission requested,  
9 with a new clarified table and a planting plan listed. The Commission requested that the  
10 drywell detail be revised.

11  
12  
13 On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the  
14 following vote:

15  
16 **AYES:** Michael Klemens, Hugh Greechan, Peter Larr, Franklin Chu, Barbara  
17 Cummings, Martha Monserrate, Patrick McGunagle

18 **NAYS:** None

19 **RECUSED:** None

20 **ABSENT:** Barbara Cummings

21  
22 the Planning Commission took the following action:

23  
24 **ACTION:** The Planning Commission conditionally approved Wetland Permit #125.

### **4. 2 School Street**

25  
26  
27  
28 Linda Whitehead (applicant's attorney) discussed the application with the Commission,  
29 including the moving of the garage 6 feet from the property line. She stated that the  
30 proposed garage with storage area will be no higher than the previously approved garage.

31  
32 The Commission requested that a stipulation be placed in the resolution, directing the  
33 applicant to repair the sidewalk in front of 25 Smith Street to its original condition.

34  
35 On a motion made by Peter Larr, seconded by Michael Klemens and carried by the  
36 following vote:

37  
38 **AYES:** Michael Klemens, Hugh Greechan, Peter Larr, Franklin Chu, Barbara  
39 Cummings, Martha Monserrate, Patrick McGunagle

40 **NAYS:** None

41 **RECUSED:** None

42 **ABSENT:** Barbara Cummings

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the Planning Commission took the following action:

**ACTION:** The Planning Commission conditionally approved Modified Final Site Plan #270.

### 5. Schiffer Subdivision

The City Planner explained that the Building Inspector reviewed the plans and determined that the lot configurations shown on the plan comply with the requirements of the Zoning Code, including the minimum lot width requirement. The City Planner noted concern, however with the lot line configuration and the potential for future property disputes regarding the placement of structures or encroachments into real or perceived yards.

The Commission suggested that the applicant obtain a variance. Mr. Gedney noted that obtaining a variance would result in expense and delays for the applicant. The City Planner suggested that he could work with Mr. Gedney to modify the lot lines to make them generally more perpendicular to street lines to avoid some of the potential future property disputes. The Commission suggested that landscaping be provided or other markers to delineate the property lines.

### 6. Del Tufo

The Chairman, Michael Klemens, recused himself from this discussion and left the conference room. Vice-Chair, Peter Larr, conducted the discussion.

The Commission discussed each of the issues raised during the public hearing noting that it was their opinion that the fence would not significantly impact the flood control in the area, impede flood debris, restrict migration of wildlife or degrade habitat, alter the visual character of the neighborhood. The Commission discussed requiring the installation of an invisible fence for the keeping of dogs, but was advised that the tenant found such devices inhumane and objected to their use.

Joe Murphy noted that the CC/AC had no objection to the fence.

The Commission noted the location of the fence relative to the possible location of a County sewer easement on the applicant's property. The City Engineer stated that the City does not enforce County easements and that the fence would still afford the County access to the sewer in the event of a needed repair.

The Commission also discussed its role in the review of wetland violations and whether it should impose certain conditions or deny the application as a means of enforcing the City's Wetlands Laws. The Commission noted concern that failure to impose such penalties would send a message that it's acceptable to violate the law. The City Planner

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1 advised that it's not the Commission's role or jurisdiction to send messages. That role is  
2 better left to the courts. The Commission is bound by the wetlands law, which requires it to  
3 seek viable alternatives and where such alternatives are not reasonably available that it  
4 consider the impact of the proposed activity and mitigate for such impact. The City  
5 Planner further suggested that since the Commission found the fence did not appear to  
6 have an impact that denying the application would appear arbitrary. He also noted that the  
7 Commission routinely approves activities within the wetland buffer that have a more  
8 significant impact than the subject application.

9  
10 On a motion made by Martha Monserrate, seconded by Hugh Greechan and carried by the  
11 following vote:

12  
13 AYES: Hugh Greechan, Peter Larr, Franklin Chu, Martha Monserrate, Patrick  
14 McGunagle  
15 NAYS: None  
16 RECUSED: Michael Klemens  
17 ABSENT: Barbara Cummings

18  
19 the Planning Commission took the following action:

20  
21 **ACTION:** The Planning Commission conditionally approved Wetland Permit #126.

### 22 23 7. East Restaurant

24  
25 Tucker Chase (applicant's architect) discussed the revised plans he submitted for the  
26 enclosed trash container, curb cuts for parking and recyclables. He noted that no  
27 recyclables would be stored outside. The curb cut will be between 40 and 50 feet in length,  
28 the curb box will be lowered and the cover and frame will be changed, as per the City  
29 Engineer's request. There will be significant improvements to the rear of the building,  
30 including an all new ventilation systems and lights placed on the exterior staircase, instead  
31 of on tall poles.

32  
33 On a motion made by Martha Monserrate, seconded by Hugh Greechan and carried by the  
34 following vote:

35  
36 AYES: Hugh Greechan, Peter Larr, Franklin Chu, Martha Monserrate, Patrick  
37 McGunagle  
38 NAYS: None  
39 RECUSED: Michael Klemens  
40 ABSENT: Barbara Cummings

41  
42 the Planning Commission took the following action:

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**ACTION:** The Planning Commission conditionally approved Modified Final Site Plan #269.

### 8. 195 Grace Church Street

Linda Whitehead (applicant's attorney) presented a new plan for this application. In accordance with the Commission's previous request, the lot fully conforms to zoning and is located outside the wetland boundary. A small portion of wetland would be filled, but this wetland area is currently lawn and would remain lawn on the proposed plan. Ms. Whitehead noted that new wetland plantings would be provided to enhance the wetland buffer and create additional wetlands. Monuments and a split rail fence would be provided to delineate the wetland area and control residential creep from the use of the rear yard of the property. Ms. Whitehead noted that water quality would be improved with the installation of a new sump on the existing City drainage line and the modification of the location of outfall and headwall. A new planted swale would be provided to improve water quality.

The Commission suggested that a conservation easement be provided for the benefit of a third party such as the Westchester Land Trust. It was suggested that such organizations would desire such easements and could reduce the enforcement burdens of City staff. The City Planner suggested that to be effective the terms of the easement would need to be as restrictive as the City's wetlands law and that desired by the Commission for the use of the on-site wetland. Ms. Whitehead responded that the applicant is concerned about the impact a conservation easement may have on sale of the property, but that she would consider the Commission's request.

The Commission requested that more information be provided regarding the details of constructing the wetland area and the easement be modified to include the proposed relocated headwall.

On a motion made by Peter Larr, seconded by Michael Klemens and carried by the following vote:

**AYES:** Michael Klemens, Hugh Greechan, Peter Larr, Franklin Chu, Martha Monserrate, Patrick McGunagle

**NAYS:** None

**RECUSED:** None

**ABSENT:** Barbara Cummings

the Planning Commission took the following action:

**ACTION:** The Planning Commission set a public hearing for Wetland Permit #109 for its next meeting on April 22, 2003.

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### **9. Curry Residence**

Due to time constraints the Commission postponed the discussion of this matter to its next meeting.

There being no further business the Commission unanimously adopted a motion to adjourn the meeting at approximately 11:30 pm.

Christian K. Miller, AICP  
City Planner